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By: **Delegates Ramirez, G. Clagett, Conroy, DeBoy, Feldman, Healey,  
Hixson, Hubbard, Kaiser, Lee, Madaleno, Mandel, Parker, Parrott,  
Pendergrass, and Stern**

Introduced and read first time: January 23, 2004

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Identity Fraud Victims Act of 2004**

3 FOR the purpose of allowing a person to file a petition for expungement of certain  
4 records if the person's name or other identification has been used without  
5 consent or authorization by another in violation of a certain provision of law;  
6 requiring a person to file a certain petition in a certain court; authorizing the  
7 Attorney General to issue an identity fraud passport to a person who meets  
8 certain requirements; requiring the Attorney General to give a person to whom  
9 an identity fraud passport has been issued access to certain information under  
10 certain circumstances; specifying that an identity fraud passport must state the  
11 basis for its issuance and be accepted as evidence of identity by certain persons;  
12 requiring the Attorney General to keep each application for an identity fraud  
13 passport and to adopt certain regulations; authorizing a consumer to request a  
14 consumer reporting agency to block permanently the reporting of certain  
15 information; requiring that a consumer reporting agency within a certain time  
16 block permanently the reporting of certain information under certain  
17 circumstances and promptly notify the consumer of the effective date of the  
18 block; authorizing a consumer reporting agency to decline or rescind a block of  
19 certain information under certain circumstances; requiring that a consumer be  
20 notified if a block of information is declined or rescinded; specifying that a  
21 consumer whose request for a block on information has been declined or  
22 rescinded is not precluded from making another request for a block that is based  
23 on different circumstances; defining a certain term; and generally relating to  
24 identity fraud victims.

25 BY repealing and reenacting, with amendments,  
26 Article - Criminal Procedure  
27 Section 10-105(a) and (b)  
28 Annotated Code of Maryland  
29 (2001 Volume and 2003 Supplement)

30 BY adding to  
31 Article - Criminal Procedure

1 Section 11-1101 through 11-1103, inclusive, to be under the new subtitle  
2 "Subtitle 11. Identity Fraud Passport"  
3 Annotated Code of Maryland  
4 (2001 Volume and 2003 Supplement)

5 BY adding to  
6 Article - Commercial Law  
7 Section 14-3201 to be under the new subtitle "Subtitle 32. Identity Fraud  
8 Victims"  
9 Annotated Code of Maryland  
10 (2000 Replacement Volume and 2003 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Criminal Procedure**

14 10-105.

15 (a) (1) A person who has been charged with the commission of a crime,  
16 including a violation of the Transportation Article for which a term of imprisonment  
17 may be imposed, may file a petition listing relevant facts for expungement of a police  
18 record, court record, or other record maintained by the State or a political subdivision  
19 of the State if:

20 [(1)] (I) the person is acquitted;

21 [(2)] (II) the charge is otherwise dismissed;

22 [(3)] (III) a probation before judgment is entered, unless the person is  
23 charged with a violation of § 21-902 of the Transportation Article or Title 2, Subtitle  
24 5 or § 3-211 of the Criminal Law Article;

25 [(4)] (IV) a nolle prosequi is entered;

26 [(5)] (V) the court indefinitely postpones trial of a criminal charge by  
27 marking the criminal charge "stet" on the docket;

28 [(6)] (VI) the case is compromised under § 3-207 of the Criminal Law  
29 Article;

30 [(7)] (VII) the charge was transferred to the juvenile court under § 4-202  
31 of this article; or

32 [(8)] (VIII) the person:

33 [(i)] 1. is convicted of only one criminal act, and that act is not a  
34 crime of violence; and

1 [(ii)] 2. is granted a full and unconditional pardon by the  
2 Governor.

3 (2) A PERSON MAY FILE A PETITION FOR EXPUNGEMENT OF A POLICE  
4 RECORD, COURT RECORD, OR OTHER RECORD MAINTAINED BY THE STATE OR A  
5 POLITICAL SUBDIVISION OF THE STATE IF THE RECORD RESULTED FROM THE  
6 ARREST OF ANOTHER PERSON USING, WITHOUT CONSENT OR AUTHORIZATION IN  
7 VIOLATION OF § 8-301 OF THE CRIMINAL LAW ARTICLE, THE NAME OR OTHER  
8 IDENTIFICATION OF THE PERSON SEEKING EXPUNGEMENT.

9 (b) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this  
10 subsection, a person shall file a petition in the court in which the proceeding began.

11 (2) If the proceeding began in one court and was transferred to another  
12 court, the person shall file the petition in the court to which the proceeding was  
13 transferred.

14 (3) (i) If the proceeding in a court of original jurisdiction was appealed  
15 to a court exercising appellate jurisdiction, the person shall file the petition in the  
16 appellate court.

17 (ii) The appellate court may remand the matter to the court of  
18 original jurisdiction.

19 (4) A PERSON AUTHORIZED TO FILE A PETITION UNDER SUBSECTION  
20 (A)(2) OF THIS SECTION SHALL FILE THE PETITION IN THE COURT DISPOSING OF THE  
21 CHARGE OF VIOLATING § 8-301 OF THE CRIMINAL LAW ARTICLE.

22 SUBTITLE 11. IDENTITY FRAUD PASSPORT.

23 11-1101.

24 (A) THE ATTORNEY GENERAL MAY ISSUE AN IDENTITY FRAUD PASSPORT TO A  
25 PERSON WHO:

26 (1) FILES A POLICE REPORT ALLEGING THAT THE PERSON IS A VICTIM  
27 OF IDENTITY FRAUD; OR

28 (2) SUBMITS TO THE ATTORNEY GENERAL A CERTIFIED COPY OF A  
29 COURT ORDER FOR EXPUNGEMENT OBTAINED UNDER § 10-105 OF THIS ARTICLE.

30 (B) THE ATTORNEY GENERAL SHALL GIVE THE PERSON ACCESS TO  
31 INFORMATION CONCERNING THE IDENTITY FRAUD ON RECEIPT OF A CERTIFIED  
32 COPY OF A COURT ORDER FOR EXPUNGEMENT.

33 11-1102.

34 AN IDENTITY FRAUD PASSPORT:

35 (1) SHALL STATE THE BASIS FOR ITS ISSUANCE; AND

1 (2) SHALL BE ACCEPTED AS EVIDENCE OF IDENTITY BY LAW  
2 ENFORCEMENT OFFICERS OR OTHER INDIVIDUALS WHO MAY CHALLENGE THE  
3 PERSON'S IDENTITY.

4 11-1103.

5 THE ATTORNEY GENERAL SHALL:

6 (1) KEEP EACH APPLICATION FOR AN IDENTITY FRAUD PASSPORT; AND

7 (2) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

8 **Article - Commercial Law**

9 SUBTITLE 32. IDENTITY FRAUD VICTIMS.

10 14-3201.

11 (A) IN THIS SECTION, "CONSUMER" HAS THE MEANING STATED IN 15 U.S.C. §  
12 1681.

13 (B) A CONSUMER MAY REQUEST A CONSUMER REPORTING AGENCY TO BLOCK  
14 PERMANENTLY THE REPORTING OF INFORMATION THAT THE CONSUMER  
15 IDENTIFIES AS ERRONEOUS BECAUSE OF AN IDENTITY FRAUD VIOLATION UNDER §  
16 8-301 OF THE CRIMINAL LAW ARTICLE BY SENDING TO THE CONSUMER REPORTING  
17 AGENCY:

18 (1) PROOF OF THE CONSUMER'S IDENTIFICATION; AND

19 (2) A COPY OF AN EXPUNGEMENT ORDER OR A POLICE REPORT  
20 CONCERNING THE CONSUMER'S CLAIM TO BE A VICTIM OF IDENTITY FRAUD.

21 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, WITHIN 30  
22 DAYS AFTER RECEIPT OF PROOF OF THE CONSUMER'S IDENTIFICATION AND A COPY  
23 OF AN EXPUNGEMENT ORDER OR A POLICE REPORT, A CONSUMER REPORTING  
24 AGENCY SHALL:

25 (1) BLOCK PERMANENTLY THE REPORTING OF INFORMATION THAT THE  
26 CONSUMER IDENTIFIES AS ERRONEOUS; AND

27 (2) PROMPTLY NOTIFY THE CONSUMER OF THE EFFECTIVE DATE OF  
28 THE BLOCK.

29 (D) (1) A CONSUMER REPORTING AGENCY MAY DECLINE OR RESCIND A  
30 BLOCK ON CONSUMER INFORMATION IF:

31 (I) IN THE EXERCISE OF GOOD FAITH AND REASONABLE  
32 JUDGMENT, THE CONSUMER REPORTING AGENCY BELIEVES THE CONSUMER  
33 MISREPRESENTED FACTS RELEVANT TO THE REQUEST TO BLOCK UNDER THIS  
34 SECTION;

1 (II) THE CONSUMER AGREES THAT THE INFORMATION SHOULD  
2 NOT BE BLOCKED; OR

3 (III) THE CONSUMER KNEW OR SHOULD HAVE KNOWN THAT THE  
4 BLOCK WAS PART OF A SCHEME IN WHICH MONEY, GOODS, OR SERVICES WERE  
5 OBTAINED.

6 (2) IF THE BLOCK ON INFORMATION IS DECLINED OR RESCINDED, THE  
7 CONSUMER SHALL BE NOTIFIED PROMPTLY IN THE SAME MANNER AS CONSUMERS  
8 ARE NOTIFIED OF THE REINSERTION OF INFORMATION UNDER 15 U.S.C. § 1681I.

9 (E) A CONSUMER WHOSE REQUEST FOR A BLOCK ON INFORMATION HAS BEEN  
10 DECLINED OR RESCINDED IS NOT PRECLUDED FROM MAKING ANOTHER REQUEST  
11 FOR A BLOCK THAT IS BASED ON DIFFERENT CIRCUMSTANCES.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2004.